

§ 1305.2

for the government of his/her department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. Section 301 does not authorize withholding information from the public or limiting the availability of records to the public. This part contains the regulations of the Millennium Challenge Corporation (MCC) concerning procedures to be followed when a request, subpoena, order or other demand (hereinafter in this part referred to as a “demand”) of a court or other authorities in any state or federal proceeding is issued for the production or disclosure of:

- (a) Any material contained in the files of MCC;
- (b) Any information relating to materials contained in the files of MCC; or
- (c) Any information or material acquired by an employee of MCC during the performance of the employee’s official duties or because of the employee’s official status.

§ 1305.2 Definitions.

For purposes of this part:

- (a) *Demand* means a request, order, or subpoena for testimony or documents related to or for possible use in a legal proceeding.
- (b) *Document* means any record or other property, no matter what media and including copies thereof, held by MCC, including without limitation, official letters, telegrams, memoranda, reports, studies, calendar and diary entries, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes and sound or mechanical reproductions.
- (c) *Employee* means all employees and officers of MCC, including contractors who have been appointed by, or are subject to the supervision, jurisdiction or control of MCC. The procedures established within this part also apply to former employees and contractors of MCC.
- (d) *General Counsel* means the General Counsel or MCC employee to whom the General Counsel has delegated authority to act under this subpart.

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§ 1305.3 Production prohibited unless approved.

No employee or former employee shall, in response to a demand of a court or other authority, disclose any information relating to materials contained in the files of MCC, or disclose any information or produce any material acquired as part of the performance of the person’s official duties, or because of the person’s official status, without the prior, written approval of the General Counsel.

§ 1305.4 Factors to be considered by the General Counsel.

(a) In deciding whether to authorize the release of official information or the testimony of employees concerning official information, the General Counsel shall consider the following factors:

- (1) Whether the demand is unduly burdensome;
- (2) MCC’s ability to maintain impartiality in conducting its business;
- (3) Whether the time and money of the United States would be used for private purposes;
- (4) The extent to which the time of employees for conducting official business would be compromised;
- (5) Whether the public might misconstrue variances between personal opinions of employees and MCC policy;
- (6) Whether the demand demonstrates that the information requested is relevant and material to the action pending, genuinely necessary to the proceeding, unavailable from other sources, and reasonable in its scope;
- (7) Whether the number of similar demands would have a cumulative effect on the expenditure of agency resources;
- (8) Whether disclosure otherwise would be inappropriate under the circumstances; and
- (9) Any other factor that is appropriate.

(b) Among those demands in response to which compliance will not ordinarily be authorized are those with respect to which any of the following factors exists:

- (1) The disclosure would violate a statute, Executive order, or regulation;
- (2) The integrity of the administrative and deliberative processes of MCC would be compromised;